IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3003 OF 2005

Vilas Raghunath Dhoble ...Petitioner

Versus

Smt.Suchitra Nitin Dhoble & Anr. ...Respondents

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Mr.Nitin Pradhan with Ms.S.D.Khot for Petitioner.

Mrs.M.M.Deshmukh, A.P.P. for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 16, 2005.

P.C.

1. The first grievance made on behalf of the Petitioner is that the lower Court has observed that there is no option for the Complainant, but to file affidavit in lieu of examination-in-chief, while interpreting Section 145 of the Negotiable Instruments Act.

2. This grievance does not lie in the mouth of the Petitioner, who is the accused. Even if

such observation is made and incorrect in law, cannot be the basis to entertain the present Petition, so as to stall the further trial, which is pending before the lower Court.

3. Learned Counsel would then contend that the Complainant has filed affidavit in lieu of examination-in-chief and has made reference to certain documents and marked them as Exhibits. According to him, those documents can be taken on record as Exhibits only after the same are proved by the Complainant in accordance with law. From the Judgment which is impugned before me, no such grievance was made before the lower Courts nor there was occasion to consider that question by the lower Court. As and when the trial progresses and if such plea is taken by the Petitioner before the Trial Court, needless to observe that the Trial Court will decide the same in accordance with law. Once again, this ground cannot be the basis to entertain the present Petition.

4. It is lastly submitted that non-bailable warrants have been issued by the Trial Court

against the Petitioner. Without going into the correctness of the order passed by the Magistrate issuing non-bailable warrants against the Petitioner, in my opinion, interest of justice demands that the Petitioner be given time to appear before the Trial Court and make appropriate application as may be advised as requested by the Counsel for the Petitioner.

5. Accordingly, it is ordered that Petitioner not to be arrested for a period of two weeks from today to facilitate the Petitioner to appear before the concerned Court and make necessary application as may be advised, so as to obviate the consequences that would flow from the arrest warrant issued against him.

6. Petition disposed of on the above terms.

A.M.KHANWILKAR, J.